

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 29, 2005

To: The Commission
(Meeting of May 5, 2005)

From: Delaney L. Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1732 (La Malfa) Natural gas: Gas Consumption Surcharge Fund**
As Introduced (February 22, 2005)

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support.

SUMMARY: This bill would provide the California Energy Commission (CEC) with the ability to use contracting procedures currently in place for the electric related research (PIER) program for its administration of public interest natural gas research and development (R&D) projects.

Standard state contracting rules may hamper the CEC's ability to effectively administer the public interest natural gas R&D program. The purpose of the bill is to provide the CEC with greater flexibility in the selection of contractors used to perform work on public interest natural gas R&D projects. AB 1732 seeks to accomplish this by allowing the CEC to administer the natural gas R&D program according to Chapter 7.1 of Division 15 of the Public Resources Code (PRC). This chapter of the PRC includes provisions setting forth contracting procedures for the PIER program and other requirements.

DIVISION ANALYSIS (Energy): In Decision (D.) 04-08-010, the Commission selected the CEC as administrator for the public interest natural gas R&D program and, therefore, has an interest in ensuring that the CEC uses gas surcharge funds for its administration of the program as effectively and efficiently as possible. Using sub-optimal contracting procedures may lead to delay and excess costs, reducing the amount of available funding for R&D projects. The Energy Division understands that a need exists for CEC to obtain more suitable administrative processes and agree that the PIER contracting procedures are appropriate for the public interest natural gas R&D program.

The problem with AB 1732 is its broad unqualified reference to the PRC. Provisions in Chapter 7.1 of the PRC can be interpreted to allow the CEC to take certain actions that could be in conflict with the Commission's policies stated in D.04-08-010, such as a prohibition against sub-contracting with investor-owned utilities for administration of any R&D programs. Additionally, Chapter 7.1 contains provisions that are unrelated to the objective of AB 1732 and refer to items that have no relevance to the natural gas research program (for example, PRC Section 25620.10 discusses the creation of a grant program for distributed generation systems, however this has no association with natural gas related R&D).

The need for legislative action to obtain PIER-type contracting procedures might not be necessary if the Department of General Services (DGS) grants the CEC's waiver request (see CEC's March 31, 2005 Natural Gas Public interest Research Program 2004 report to the Commission).

Suggested Amendments: The Energy Division recommends that AB 1732 be amended to refer to only those sections in the PRC directly pertaining to R&D contracting practices and procedures. These specific PRC sections are 25620.3 and 25620.5. In connection with this reference, it is important that language be included preserving the California Public Utilities Commission's (Commission's) oversight role of the public interest natural gas R&D program. Without this qualification, terms in the PRC can be interpreted to limit or supersede the Commission's ability to maintain its authority over the public interest natural gas R&D program (see attachment for specific recommended language changes).

While the Energy Division is unopposed to providing CEC with the means to administer the public interest natural gas R&D program as effectively as possible, AB 1732's reference to the PRC is too broad possibly resulting in conflicts with the Commission's oversight role of the natural gas public interest R&D program. Additionally, confusion may arise because provisions in the referenced sections of the PRC address electricity related R&D and other items that have no application in the administration of public interest natural gas R&D.

STATUS: Passed in Assembly U. & C. on April 11th. Passed in Assembly Natural Resources on April 25th. The bill is now on the Assembly consent calendar.

SUPPORT/OPPOSITION

Support:

California Energy Commission (Sponsor)

Opposition:

None on file.

STAFF CONTACTS:

Tom Flynn
OGA

trf@cpuc.ca.gov
(916) 324-8689

Eugene Cadenasso
Energy Division

cpe@cpuc.ca.gov
(415) 703-1214

Date: April 29, 2005

BILL LANGUAGE:

BILL NUMBER: AB 1732 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member La Malfa

FEBRUARY 22, 2005

An act to amend Section 895 of the Public Utilities Code, relating to natural gas, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1732, as introduced, La Malfa. Natural gas: Gas Consumption Surcharge Fund.

Under existing law, the California Public Utilities Commission (CPUC) has regulatory authority over public utilities, including gas corporations. Existing law establishes a surcharge on all natural gas consumed in the state to fund certain low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development. Existing law requires a public utility gas corporation, as defined, to collect the surcharge from natural gas consumers, as specified. The money from the surcharge is deposited in the Gas Consumption Surcharge Fund and is continuously appropriated to specified entities, including the CPUC, or an entity designated by the CPUC, to fund low-income assistance programs, cost-effective energy efficiency and conservation activities, and public interest research and development not adequately provided by the competitive and regulated markets.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires it to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program.

This bill would provide that if the Energy Commission is designated by the CPUC to receive funds from the Gas Consumption Surcharge Fund for public interest research and development, the Energy Commission is authorized to administer the program pursuant to the Public Interest Research, Development, and Demonstration Program.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 895 of the Public Utilities Code is amended to read:

895. Notwithstanding Section 13340 of the Government Code, funds in the Gas Consumption Surcharge Fund are continuously appropriated, without regard to fiscal years, as follows: (a) To the commission or

an entity designated by the commission to fund programs described in subdivision (a) of Section 890. *If the State Energy Resources Conservation and Development Commission is designated by the commission to receive funds for public interest research and development, the State Energy Resources Conservation and Development Commission may administer the program pursuant to Chapter 7.1 (commencing with Section 25620) of Division 15 of the Public Resources Code.*

(b) To pay the commission for its costs in carrying out its duties and responsibilities under this article.

(c) To pay the State Board of Equalization for its costs in administering this article.

SEC. 2.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are: In order to improve the administrative efficiency and the delivery of services by the State Energy Resources Conservation and Development Commission to clients and customers, it is necessary that this act take effect immediately.